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March 27, 2023

VIA ECF

Honorable Analisa Torres
United States District Court Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *James Rhodes v. City of New York et al.*, 22-CV-07884 (AT) (KHP)

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and attorney for defendants City of New York, Police Officer Gamze S. Alpsy, and Sergeant Maribel Burgos. For the reasons set forth herein, defendants respectfully request that this matter be removed from mediation. Plaintiff counsel, Alexis Padilla, consents to this application.

By way of background, the amended complaint alleges, *inter alia*, that, on October 30, 2021, plaintiff was arrested and tased for refusing to stop playing his saxophone and disperse from a public sidewalk. Plaintiff purports to bring claims of false arrest, excessive force, and a municipal liability claim against the City of New York.

Pursuant to the Southern District of New York's Local Civil Rule 83.10, on December 20, 2022, this matter was selected for participation in the Southern District of New York's mediation program. On March 8, 2023, the first mediation conference was scheduled for March 24, 2023. *ECF No. 21*. Upon further investigation into the allegations of the complaint, however, the City determined that it would be taking a no pay position with respect to this case. Accordingly, the undersigned promptly advised plaintiff's counsel, the mediation office, and assigned mediator regarding same, and requested cancellation of the mediation. In response, the mediation office requested that the undersigned advise the Court of same.

Accordingly, defendants respectfully request that this matter be removed from mediation and proceed with litigation. Pursuant to the Court's March 14, 2023, *ECF No. 21*, order, the parties are scheduled to submit a joint letter and proposed case management plan by April 3, 2023, with which the parties intend to comply.

Thank you for your consideration on the instant application.

Respectfully submitted,

Thomas Lai s/

Thomas Lai
Senior Counsel
Special Federal Litigation Division

To: **VIA ECF**
Alexis Padilla
Attorney for Plaintiff

GRANTED.

SO ORDERED.

Dated: March 28, 2023
New York, New York



ANALISA TORRES
United States District Judge